

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)
)
Amendment of the Schedule)
of Application Fees Set Forth) GEN Docket No. 86-285
In Sections 1.1102 through 1.1109)
of the Commission's Rules)

SECOND ORDER

Adopted: June 17, 2011

Released: June 20, 2011

By the Commission:

1. In the *Notice of Proposed Rulemaking* (“NPRM”) in this proceeding, we proposed to clarify the rules on payment of post-auction long-form filing fees by winning bidders in auctions of construction permits in the broadcast services. We noted an inconsistency between the *Broadcast Competitive Bidding First Report and Order*, in which the Commission required that winning bidders pay filing fees with their post-auction long-form applications,¹ Section 1.1104 of the Rules, the Schedule of Charges for Media Bureau Service filings, which requires payment of a fee when the long-form application is filed,² and Section 1.2107(c) of the Rules, which suggests that a filing fee need not accompany a high bidder’s long-form application.³ To rectify this inconsistency and conform the Rules to the Commission’s stated intent in the *Broadcast Competitive Bidding First Report and Order*, we proposed to amend Section 1.2107(c) to read, “Except as otherwise provided in Section 1.1104 of the rules, high bidders need not submit an additional application fee with their long-form applications.” By amending Section 1.2107 (c), we clarify that high bidders must still pay any fees required by Section 1.1104 when filing their post-auction long-form application.

2. We received no comments or reply comments regarding the proposed rule change. Therefore, we adopt the change to Section 1.2107(c) of our Rules proposed in the *NPRM*, and set forth in Appendix.

¹ Implementation of Section 309(j) of the Communications Act – Competitive Bidding Procedures for Commercial Broadcast and Instructional Television Fixed Television Service Licenses, MM Docket No. 97-234, *First Report and Order*, 13 FCC Rcd 15920, 15984-85 ¶ 164 (1998) (*Broadcast Competitive Bidding First Report and Order*).

² 47 C.F.R. § 1.1104.

³ 47 C.F.R. § 1.2107(c) (“Notwithstanding any other provision in Title 47 of the Code of Federal Regulations to the contrary, high bidders need not submit an additional application filing fee with their long-form applications.”). The Commission adopted section 1.2107(c) before the Balanced Budget Act of 1997 extended the Commission’s competitive bidding authority under Section 309(j) of the Communications Act of 1934 to mutually exclusive applications for construction permits or licenses in broadcast services. *See* Balanced Budget Act of 1997, Pub. L. No. 105-33, Title III, 111 Stat. 251 (1997).

ORDERING CLAUSES

3. The rule adopted in this Second Order is a rule of agency procedure that does not substantially affect the rights or obligations of non-agency parties, and is exempt from the requirements of the Congressional Review Act Pursuant to 5 U.S.C. § 804(3)(C).

4. IT IS FURTHER ORDERED that the rule change in this Second Order IS EFFECTIVE the day of publication in the Federal Register.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

APPENDIX

Rule Changes

Part 1 of Title 47 of the Code of Federal Regulations is amended to read as follows:

Part 1 – PRACTICE AND PROCEDURE

1. The Authority citations for Part 1 continue to read as follows:

Authority: 15 U.S.C. 79 *et seq.*; 47 U.S.C. §§ 151, 154(i), 154(j), 155, 157, 225, 303(r), and 309, unless otherwise noted.

2. Section 1.2107 (c) of the Commission's rules is amended to read as follows:

§1.2107. Submission of down payment and filing of long-form applications.

* * * * *

(c) A high bidder that meets its down payment obligations in a timely manner must, within ten (10) business days after being notified that it is a high bidder, submit an additional application (the "long-form application") pursuant to the rules governing the service in which the applicant is the high bidder. Except as otherwise provided in § 1.1104, high bidders need not submit an additional application filing fee with their long-form applications. Specific procedures for filing applications will be set out by Public Notice. Ownership disclosure requirements are set forth in § 1.2112. Beginning January 1, 1999, all long-form applications must be filed electronically. An applicant that fails to submit the required long-form application under this paragraph and fails to establish good cause for any late-filed submission, shall be deemed to have defaulted and will be subject to the payments set forth in § 1.2104.

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